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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R.S.A. No. 1903 of 2007

Date of decision: 20.9.2007

Ashok Kumar Arora

...Appellant

Versus

Haryana Urban Development Authority and others

...Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr. Sandeep Chhabra, Advocate for the appellant.

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RAJESH BINDAL, J.

The appellant-plaintiff is in second appeal against the judgment and decree dated October 7, 2006 passed by the Lower Appellate Court.

The challenge in the suit filed by the appellant-plaintiff was to the resumption order dated January 29, 1998 passed by the respondents resuming the booth allotted to the appellant-plaintiff. The trial Court decreed the suit while declaring the resumption order to be illegal and directed that the respondents shall be entitled to get simple interest at the rate of 10% per annum upon the balance sale consideration and in case some amount has been paid by the appellant in excess, the same shall be refundable to him alongwith interest at the rate of 10% per annum. The resumption order was set aside primarily on the ground that no notice for the proposed action was given by the respondents.

In appeal by the respondents, the learned Lower Appellate court while modifying the order of the trial Court held that respondents shall be at liberty to proceed against the appellant afresh in accordance with law while setting aside the resumption order.

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The only contention raised by learned counsel appearing for the appellant-plaintiff is that the trial Court directed that the respondents shall be entitled to the balance sale consideration along with interest at the rate of 10% per annum only whereas the learned Lower Appellate court had not granted any relief to the appellant. He submitted that infact he had already deposited the balance sale consideration alongwith interest at the rate of 18%. He is entitled to refund of the excess paid amount, if interest is calculated at the rate of 10% per annum.

I do not find any merit in this contention of the learned counsel appearing for the appellant. Admittedly, there is substantial delay in depositing of the balance amount. The booth was allotted in 1988. The same was resumed on account of non payment of balance sale consideration on January 29, 1998. At the time of allotment only 25% of the sale consideration was paid and the balance amount was paid only on April 16, 2002.

In view of above facts and circumstances of the case, I do not find any justification to interfere in the present appeal seeing the conduct of the appellant. The appeal is accordingly, dismissed.

September 20, 2007 **(Rajesh Bindal)**
Pka **Judge**